

### Remarks

Claims 1-37 are currently pending in the Application.

#### Claim amendments

This response amends Claims 24 and 33 to clarify the scope of the invention by reciting a direct communication between information devices. Support for the amendments can be found, at least in the original Claim 1.

This response clarifies the language of Claims 1, 5, 7, 9, 22-25, 30-33 and 37 by deleting the term "the steps of." This amendment is used to broaden the scope of the invention and is **not** offered in response to the Examiner's rejections.

#### 35 U.S.C. §103(a) Rejection

Claims 1-7, 10-26 and 33-37 stand rejected under 35 U.S.C. §103(a) as being obvious in view of Stuart (U.S. Pub. No. 2002/0101858). Claims 8-9 stand rejected under 35 U.S.C. §103(a) as being obvious in view of Stuart and further in view of Browning (U.S. Patent No. 6,707,581). Claims 27-32 stand rejected under 35 U.S.C. §103(a) as being obvious in view of Stuart and further in view of Hiltunen (U.S. Patent No. 6,754,484).

Applicant submits that the Examiner has **not** established a *prima facie* case of obviousness for the claims rejected under 35 U.S.C. §103(a). Applicant notes:

"To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. **Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations.** The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, not in applicant's disclosure" (emphases added) *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991).

Applicant submits that a *prima facie* case of obviousness has not been established because the Examiner has failed to show that Stuart teaches each and every element as claimed in the present application.

#### Claim 1

Applicant submits that the Examiner has not shown that Stuart discloses, suggests or teaches, *inter alia*, at least the following features recited by Claim 1 of the present application:

“conducting communication between the first and second devices in accordance with the at least one parameter by passing messages at least **directly** between the devices” (emphasis added)

The Examiner asserts that paragraph 39 on page 4 of Stuart discloses “conducting communication between the first and second devices in accordance with the at least one parameter by passing messages at least directly between the devices” as recited in Claim 1. See page 3, lines 2-5 of the Official Action. Applicant respectfully traverses the Examiner’s assertion.

Applicant submits that the Examiner failed to comply with 37 C.F.R. §1.104(c)(2) which states:

“In rejecting claims for want of novelty or for obviousness, the examiner must cite the best references at his or her command. When a reference is complex or shows or describes invention other than that claimed by Applicant, **the particular part relied on must be designated as nearly as practicable**. The pertinence, if not apparent, must be clearly explained and each rejected claim specified” (emphases added).

Applicant submits that the Examiner has failed to “designate as nearly as practicable” the particular part of Stuart relied upon in making the assertion that Stuart teaches “passing messages at least **directly** between the devices” (emphasis added) as recited in Claim 1.

Stuart discloses a way of using a first service provider, i.e. WAN, to initiate communication between communications units and a way of using a second service

provider, i.e. WLAN, to provide enhanced communications services between the communications units. See Abstract of Stuart. In paragraph 39, Stuart discloses selecting communications services to support the communications exchange between communications units. Because communications services are provided by the service providers, how can Stuart teach disclose or suggest “passing messages at least **directly** between the devices” (emphasis added) as recited in Claim 1.

It appears that the Examiner misunderstands the teaching of Stuart. According to Stuart, communication units “102” and “104” communicate through either provider “106” and/or provider “120.” See Figure 1 of Stuart. Where does Stuart teach disclose or suggest that communication units “102” and “104” are capable of communicating **directly** with each other?

Applicant submits that the Examiner has not shown that Stuart discloses, suggests or teaches “passing messages at least directly between the devices” as recited in Claim 1. Hence, Claim 1 is patentable over Stuart and should be allowed by the Examiner. Claims 2-23, at least based on their dependency on Claim 1, are also believed to be patentable over Stuart.

#### Claim 24

Applicant submits that, at least for the reasons stated above, Stuart does not teach, disclose or suggest “passing at least a message directly between the devices ... and conducting direct communication between the devices” (emphasis added) as recited in amended Claim 24. Hence, Claim 24 is patentable over Stuart and should be allowed by the Examiner. Claims 25-32, at least based on their dependency on Claim 24, are also believed to be patentable over Stuart.

#### Claim 33

Applicant submits that, at least for the reasons stated above, Stuart does not teach, disclose or suggest “sending to the first information device from the first proxy the at least one parameter established during the negotiation to be used to conduct direct communication between the first and second information devices” (emphasis added) as

recited in amended Claim 33. Hence, Claim 33 is patentable over Stuart and should be allowed by the Examiner. Claims 34-37, at least based on their dependency on Claim 33, are also believed to be patentable over Stuart.

**Conclusion**

In view of the above, reconsideration and allowance of all the claims are respectfully solicited.

The Commissioner is authorized to charge any additional fees which may be required or credit overpayment to deposit account no. 08-2025. In particular, if this response is not timely filed, then the Commissioner is authorized to treat this response as including a petition to extend the time period pursuant to 37 CFR 1.136 (a) requesting an extension of time of the number of months necessary to make this response timely filed and the petition fee due in connection therewith may be charged to deposit account no. 08-2025.

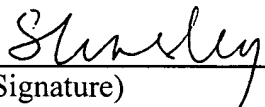
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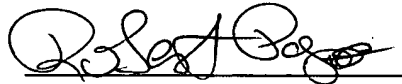
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Respectfully submitted,



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